

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SEPRACOR, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 06-113-JJF
)	(Consolidated)
DEY, L.P. and DEY, INC.,)	
)	
Defendants.)	
)	
SEPRACOR, INC.,)	<u>REDACTED</u>
)	<u>PUBLIC VERSION</u>
Plaintiff,)	
)	
v.)	
)	
BARR LABORATORIES, INC.,)	
)	
Defendant.)	

**DECLARATION OF SAM V. DESAI IN SUPPORT OF DEFENDANTS
DEY, L.P. AND DEY, INC.'S OPENING CLAIM CONSTRUCTION BRIEF**

(VOLUME I of III – EXS. 1-10)

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*Attorneys for Defendants
Dey, L.P. and Dey, Inc.*

Dated: April 10, 2008

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Plaintiff,)	
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DEY, L.P. and DEY, INC.,)	<u>PUBLIC VERSION</u>
)	
Defendants.)	
)	
SEPRACOR, INC.,)	C.A. No. 06-113 (JJF)
)	(Consolidated)
Plaintiff,)	
)	
v.)	
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BARR LABORATORIES, INC.,)	
)	
Defendant.)	
)	
)	

**DECLARATION OF SAM V. DESAI IN SUPPORT OF DEFENDANTS
DEY, L.P. AND DEY, INC.'S OPENING CLAIM CONSTRUCTION BRIEF**

I, Sam V. Desai, an attorney duly admitted to practice in the state of New York and before the bar of this Court, and a member of the law firm Frommer Lawrence & Haug LLP. I make this declaration in support of DEFENDANT'S DEY, L.P. AND DEY, INC.'S OPENING CLAIM CONSTRUCTION BRIEF.

1. Attached as Exhibit 1 is a true and accurate copy of the prescribing information for Xopenex®.

2. Attached as Exhibit 2 is a true and accurate copy of the Expert Report of Roger Newton Ph.D. (filed under seal).

3. Attached as Exhibit 3 is a true and accurate copy of Great Britain Patent Specification No. 1200886.

4. Attached as Exhibit 4 is a true and accurate copy of Great Britain Patent Specification No. 1298494.

5. Attached as Exhibit 5 is a true and accurate copy of U.S. Patent No. 5,362,755.

6. Attached as Exhibit 6 is a true and accurate copy of U.S. Patent No. 5,547,994.

7. Attached as Exhibit 7 is a true and accurate copy of U.S. Patent No. 5,760,090.

8. Attached as Exhibit 8 is a true and accurate copy of U.S. Patent No. 5,844,002.

9. Attached as Exhibit 9 is a true and accurate copy of U.S. Patent No. 6,083,993.

10. Attached as Exhibit 10 is a true and accurate copy of the Prosecution History of U.S. Patent No. 5,362,755.

11. Attached as Exhibit 11 is a true and accurate copy of the Prosecution History of U.S. Patent No. 5,547,994.

12. Attached as Exhibit 12 is a true and accurate copy of the Prosecution History of U.S. Patent No. 5,760,090.

13. Attached as Exhibit 13 is a true and accurate copy of the Prosecution History of U.S. Patent No. 5,844,002.

14. Attached as Exhibit 14 is a true and accurate copy of the Prosecution History of U.S. Patent No. 6,083,993.

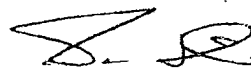
15. Attached as Exhibit 15 is a true and accurate copy of the Expert Report of Richard C. Ahrens M.D. (filed under seal).

16. Attached as Exhibit 16 is a true and accurate copy of the April 13, 2007 Deposition Transcript of Dr. James W. Young (filed under seal).

17. Attached as Exhibit 17 is a true and accurate copy of Sepracor Inc.'s Supplemental Responses to Defendants' Interrogatory Nos. 2-3, 14, and 16 (filed under seal).
18. Attached as Exhibit 18 is a true and accurate copy of excerpts from Steadman's Medical Dictionary 24th Edition.
19. Attached as Exhibit 19 is a true and accurate copy of a chart depicting the chronology of the prosecution history for the method-of-use patents.
20. Attached as Exhibit 20 is a true and accurate copy of excerpts from the Prosecution History of U.S. Application No. 09/200541.
21. Attached as Exhibit 21 is a true and accurate copy of the Second Supplemental Response of Defendant's Dey, L.P. and Dey, Inc. to Plaintiff's Interrogatories Nos. 1, 2, 4, 5, 7, and 8 (filed under seal).
22. Attached as Exhibit 22 is a true and accurate copy of the Guidelines for the Diagnosis and Management of Asthma, National Heart, Lung, and Blood Institute, National Institutes of Health (1991).
23. Attached as Exhibit 23 is a true and accurate copy of excerpts from the Physicians' Desk Reference (1989 Edition).
24. Attached as Exhibit 24 is a true and accurate copy of the article by S.W. Epstein, J.A. Barnard, and T.T. Zsoter, entitled *A Clinical Trial of Long-Term Oral Salbutamol in Reversible Diffuse Airway Obstruction*, 108 Am. Rev. Respiratory Disease 1367-72 (1973).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 10, 2008



Sam V. Desai